

(iv) Sub-bottom profiler (2–16 kHz)—up to 5 hours over the course of 5 years (an average of 1 hour per year);

(v) AN/SQQ-32—up to 5 hours over the course of 5 years (an average of 1 hour per year);

(vi) SAS-LF—up to 75 hours over the course of 5 years (an average of 15 hours per year);

(vii) AN/WLD-1 RMS-ACL—up to 25 hours over the course of 5 years (an average of 5 hours per year);

(viii) BPAUV Sidescan (center frequency 75 kHz)—up to 190 hours over the course of 5 years (an average of 38 hours per year);

(ix) TVSS—up to 83 hours over the course of 5 years (an average of 16.5 hours per year);

(x) F84Y—up to 75 hours over the course of 5 years (an average of 15 hours per year);

(xi) REMUS-SAS-HF—up to 125 hours over the course of 5 years (an average of 25 hours per year);

(xii) SAS-HF—up to 75 hours over the course of 5 years (an average of 15 hours per year);

(xiii) AN/AQS-20—up to 75 hours over the course of 5 years (an average of 15 hours per year); and

(xiv) BPAUV Sidescan (center frequency 120 kHz)—up to 125 hours over the course of 5 years (an average of 25 hours per year).

(3) Ordnance operations, or similar operations, for Navy mission activities in territorial waters (estimated amounts below):

(i) Range 1 (0–10 lb)—up to 255 detonations over the course of 5 years (an average of 51 detonations per year);

(ii) Range 2 (11–75 lb)—up to 15 detonations over the course of 5 years (an average of 3 detonations per year); and

(iii) Line charges—up to 15 detonations over the course of 5 years (an average of 3 detonations per year).

(4) Ordnance operations, or similar operations, for Navy mission activities in non-territorial waters (estimated amounts below):

(i) Range 3 (76–600 lb)—up to 80 detonations over the course of 5 years (an average of 16 detonations per year).

(ii) Reserved.

(5) Projectile firing operations, or similar operations, for Navy mission

activities in non-territorial waters (estimated amounts below):

(i) 5 in. Naval gunfire—up to 300 rounds over the course of 5 years (an average of 60 rounds per year);

(ii) 40 mm rounds—up to 2,400 rounds over the course of 5 years (an average of 480 rounds per year);

(iii) 30 mm rounds—up to 3,000 rounds over the course of 5 years (an average of 600 rounds per year);

(iv) 20 mm rounds—up to 14,835 rounds over the course of 5 years (an average of 2,967 rounds per year);

(v) 76 mm rounds—up to 1,200 rounds over the course of 5 years (an average of 240 rounds per year);

(vi) 25 mm rounds—up to 2,625 rounds over the course of 5 years (an average of 525 rounds per year); and

(vii) Small arms—up to 30,000 rounds over the course of 5 years (an average of 6,000 rounds per year).

(d) Amended regulations are effective February 1, 2012, through January 21, 2015.

(e) The taking of marine mammals may be authorized in an LOA for the activities and sources listed in §218.180(c) should the amounts (e.g., hours, number of exercises) vary from those estimated in §218.180(c), provided that the variation does not result in exceeding the amount of take indicated in §218.181(b).

[75 FR 3410, Jan. 21, 2010, as amended at 77 FR 4925, Feb. 1, 2012]

#### §218.181 Permissible methods of taking.

(a) Under Letters of Authorization issued pursuant to §§216.106 and 218.186 of this chapter, the Holder of the Letter of Authorization may incidentally, but not intentionally, take marine mammals within the area described in §218.180(b), provided the activity is in compliance with all terms, conditions, and requirements of these regulations and the appropriate Letter of Authorization.

(b) The incidental take of marine mammals under the activities identified in §218.180(c) is limited to the following species, by the indicated method of take and the indicated number of times:

(1) Level B Harassment:

## §218.182

- (i) Sperm whale (*Physeter macrocephalus*)—10 (an average of 2 annually);
- (ii) Risso's dolphin (*Grampus griseus*)—10 (an average of 2 annually);
- (iii) Bottlenose dolphin (*Tursiops truncatus*)—3,070 (an average of 614 annually);
- (iv) Atlantic spotted dolphin (*Stenella frontalis*)—2,355 (an average of 471 annually);
- (v) Pantropical spotted dolphin (*S. attenuata*)—115 (an average of 23 annually);
- (vi) Striped dolphin (*S. coeruleoalba*)—25 (an average of 5 annually);
- (vii) Spinner dolphin (*S. longirostris*)—115 (an average of 23 annually);
- (viii) Melon-headed whale (*Peponocephala electra*)—10 (an average of 2 annually);
- (ix) Short-finned pilot whale (*Globicephala macrorhynchus*)—5 (an average of 1 annually);
- (x) Clymene dolphin (*S. clymene*)—25 (an average of 5 annually);
- (2) Level A Harassment:
  - (i) Bottlenose dolphin (*Tursiops truncatus*)—10 (an average of 2 annually);
  - (ii) Atlantic spotted dolphin (*Stenella frontalis*)—10 (an average of 2 annually);
  - (iii) Pantropical spotted dolphin (*S. attenuata*)—5 (an average of 1 annually);
  - (ix) Spinner dolphin (*S. longirostris*)—5 (an average of 1 annually).

## §218.182 Prohibitions.

Notwithstanding takings contemplated in §218.181 and authorized by a Letter of Authorization issued under §216.106 of this chapter and §218.186, no person in connection with the activities described in §218.180 may:

- (a) Take any marine mammal not specified in §218.181(b);
- (b) Take any marine mammal specified in §218.181(b) other than by incidental take as specified in §218.181(b)(1) and (2);
- (c) Take a marine mammal specified in §218.181(b) if such taking results in more than a negligible impact on the species or stocks of such marine mammal; or
- (d) Violate, or fail to comply with, the terms, conditions, and requirements of these regulations or a Letter

## 50 CFR Ch. II (10–1–12 Edition)

of Authorization issued under §216.106 of this chapter and §218.186.

## §218.183 Mitigation.

When conducting RDT&E activities identified in §218.180(c), the mitigation measures contained in this subpart and subsequent Letters of Authorization issued under §§216.106 of this chapter and §218.186 must be implemented. These mitigation measures include, but are not limited to:

(a) *Mitigation Measures for HFAS/MFAS Operations:* (1) Personnel Training: (i) All marine observers onboard platforms involved in NSW C PCD RDT&E activities shall complete Marine Species Awareness Training (MSAT).

(ii) Marine observers shall be trained in the most effective means to ensure quick and effective communication within the command structure in order to facilitate implementation of mitigation measures if marine species are spotted.

(2) Marine Observer Responsibilities:

(i) On the bridge of surface vessels, there shall always be at least one to three marine species awareness trained observer(s) on watch whose duties include observing the water surface around the vessel.

(A) For vessels with length under 65 ft (20 m), there shall always be at least one marine observer on watch.

(B) For vessels with length between 65–200 ft (20–61 m), there shall always be at least two marine observers on watch.

(C) For vessels with length above 200 ft (61 m), there shall always be at least three marine observers on watch.

(ii) Each marine observer shall have at their disposal at least one set of binoculars available to aid in the detection of marine mammals.

(iii) On surface vessels equipped with AN/SQQ-53C/56, pedestal mounted “Big Eye” (20 x 110) binoculars shall be present and in good working order to assist in the detection of marine mammals in the vicinity of the vessel.

(iv) Marine observers shall employ visual search procedures employing a scanning methodology in accordance with the Lookout Training Handbook (NAVEDTRA 12968–D).